IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.3266 OF 1989

M/s.Sailor Tips Pvt.Ltd. Petitioners
vs.
Union of India & ors. Respondents

Mr.M.R.Baya i/b.Mr.N.N.Gawankar for the petitioners.

Ms.S.V.Bharucha for the respondents.

CORAM : R. M. LODHA &
J. P. DEVADHAR,JJ.

DATED : 4th May, 2006

P.C.

We heard the counsel for the parties.

2. On 13th December, 1989, rule was issued in the matter and following interim-relief came to be passed:

> "2. Interim relief in terms of prayer clause (c) of the petition on the condition that the petitioners shall pay the duty as required under Heading No.96.08 and shall execute a personal bond for the difference of duty if the goods are assessed under any other heading.
>
> 3. The respondents are directed to issue to the petitioners detention certificate in respect of the goods in question for the period from the date of the landing of the goods upto the date of clearance thereof."

3. We asked the counsel for the parties whether the goods have been assessed by the concerned Authority finally or not. Both the counsel are not aware. In the circumstances, we are satisfied that the following order shall meet the ends of justice:

(i) The respondent no.4 (or in his place the authority by any other designation having jurisdiction in the matter) shall pass a reasoned order, if not already passed so far, assessing the goods under the appropriate heading of the Customs Tariff Act, 1975.

(ii) The petitioner shall be at liberty to challenge such order, if aggrieved.

(iii) If the goods have already been assessed by the concerned Officer under heading No.96.08 or is assessed under heading no.96.08, nothing further is required in the matter. On the other hand, if the goods are assessed by the concerned Officer under any other heading, the difference of duty shall be recovered by enforcing personal bond unless the said order is stayed or set aside by the competent forum.

. No costs.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)